

Exhibit 4

Declaration of Katelyn Almeter



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SEP 12 2019

Mr. John Sams

Asbury, West Virginia 24916

Re: Turkey Creek
Site Visit: July 24, 2019
Civil Action 1:15-cv-16018

Dear Mr. Sams:

The U.S. Environmental Protection Agency (EPA) appreciates having the opportunity on July 24, 2019, to conduct a site visit to the Turkey Creek Site (Site) to observe the status of the stream condition one-year post dam removal. Attached to this letter is EPA's *Field Investigation Summary* for the Site. At the time of the inspection, data was also collected on Rapid Habitat Assessment and macroinvertebrates at four locations on the Site. As requested, the Rapid Habitat Assessment data is attached to this letter with macroinvertebrate data to follow.

Additionally, during the site visit you asked about the status of the obligations under the above-referenced consent decree. For that inquiry, EPA is requesting the following outstanding elements:

- Per Paragraph 23 of the above-referenced Consent Decree, please provide the details on the monitoring plan for the Site. Such monitoring plan must include the elements detailed in the attachment to EPA's March 12, 2018 letter approving upon specified conditions the restoration plan.
- To satisfy Paragraph 29 of the Consent Decree please record a deed restriction on the relevant portions of the property and provide EPA a copy of the instrument after it has been recorded with the county.



We appreciate your cooperation as we move forward. Should you have any questions, please feel free to contact me at 215-814-2797 or at Almeter.Katelyn@epa.gov.

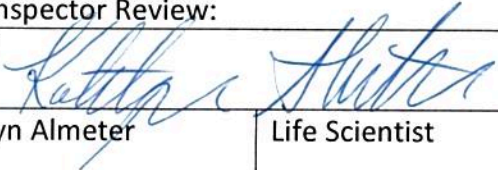

Sincerely,

A handwritten signature in blue ink, appearing to read 'Katelyn Almeter', is written over the printed name.

Katelyn Almeter
Enforcement & Compliance Assurance Division

cc: Michael Callaghan, Esq. – Neely & Callaghan

Region 3 Enforcement & Compliance Assurance Division
CLEAN WATER ACT SECTION 404
FIELD INVESTIGATION SUMMARY

Inspector Name:	Katelyn Almeter		
Inspection Date(s)/Time(s):	Date: July 24, 2019 Start Time: 10:00 am End Time: 2:50 pm		
Site Name:	Turkey Creek		
Site Owner Name	James C. Justice, II		
Site Location: (city, state, zip code)	Approximately 2.2 miles along County Route 29/3 at the intersection with County Route 13/3 McGlone, West Virginia 24941		
County:	Monroe County		
Geographic Coordinates:	37.5227 N, 80.492 W		
Name of Nearby Water Body:	Turkey Creek		
Estimated Size of Site (acres):	Approximately 70 acres		
Weather Conditions:	Sunny; 75°F; Recent rain (1.25-inch rainstorm came through the area within the past 48 hours)		
Attendee(s):			
Katelyn Almeter	USEPA	ECAD Inspector	Almeter.Katelyn@epa.gov 215-814-2797
Todd Lutte	USEPA	LSASD	Lutte.Todd@epa.gov
Louis Reynolds	USEPA	LSASD	Reynolds.Louis@epa.gov
John Sams	Contractor		john_alta@msn.com
Inspector(s):			
Katelyn Almeter	USEPA	ECAD/ SDWA & Wetland Section	Almeter.Katelyn@epa.gov 215-814-2797
EPA Inspector Review:			
[sign] 			[Date] 9/12/2019
Katelyn Almeter	Life Scientist	SDWA & Wetland Section	ECAD
EPA Supervisor Review:			
[Sign] 			[Date] 9/12/19
Andrew Dinsmore	Section Chief	SDWA & Wetland Section	ECAD

Purpose of Inspection: Clean Water Act, Section 404 injunctive relief monitoring for Consent Decree (Civil Action 1:15-cv-16018)

Notes: Opening conference held with John Sams. Mr. Sams was the authorized representative on-site on behalf of the landowner. Presented credentials to Mr. Sams at the beginning of the inspection. The Site is the area as identified in the Consent Decree. Dam locations are identified upstream to downstream, consistent with identification numbers in Appendix A of the Consent Decree.

Observations: Meeting location was in Union, WV. From there, USEPA followed Mr. Sams to the Site. At the Site, the inspection started at the upstream end of the Turkey Creek at point slightly upstream of the previous location of the furthest upstream dam (Dam 1) (DSCN0918.JPG). Turkey Creek was flowing at Bankfull during the time of inspection. At that location, staff from USEPA's Laboratory Service and Applied Science Division (LSASD) collected Rapid Habitat Assessment and macroinvertebrate data (DSCN0919.JPG to DSCN0922), identified as Assessment Point 1 (37.522022 N, 80.479356 W).

At the previous location for Dam 1, the stone wall along the bank is being left in place to preserve the current stability of that bank and avoid the bank damage that removal might pose now that vegetation has established on the stream channel side (DSCN0923.JPG and DSCN0925.JPG). The trees that had fallen across the channel while the dam was in-stream are being left in place for the quality and variety of habitat that they are currently providing (DSCN0926.JPG and DSCN0928.JPG). Even with the trees, stream flow was centered through that section of channel and not stressing the banks. The inspection continued downstream to the next dam location (DSCN0930.JPG).

Assessment Point 2 (37.52459 N, 80.479770 W) was located at an area of riffle habitat that was previously inundated by Dam 4 (DSCN0938.JPG to DSCN0942.JPG).

Locations of Dams 5 through 10 are in a tighter, boulder dominated valley. Drove further downstream to access the downstream locations and walked a section of Turkey Creek (DSCN0943.JPG to DSCN0946.JPG). Dam locations that previously had been identified as having damaged or eroded banks from when the dams were in place were visually checked for their current condition (DSCN0956.JPG and DSCN0957.JPG). Turkey Creek was flowing naturally and light repair work that had been completed last year appeared effective (DSCN0960.JPG). The banks have started to stabilize and revegetate (DSCN0961.JPG and DSCN0962.JPG).





Accessed the next section of dam locations downstream, which begins with Dam 11. Walked the section of Turkey Creek around Dam 12 where the side channel previously had formed by the stream flow jumping the bank to re-route around the dam. Part of the bank had been repaired and appeared to be restabilizing. Stream flow appeared centered and was flowing naturally. Assessment Point 3 (37.525815 N, 80.498850 W) was located in this area (DSCN0963.JPG).

The downstream three dams (Dam 18 to Dam 20) were accessed from the gate (DSCN0967.JPG). Turkey Creek appeared to be stable and flowing naturally (DSCN0969.JPG). Assessment Point 4 (37.536486 N, 80.508822 W) was located downstream of the location of Dam 20 (DSCN0973.JPG).





Overall, stream flows through Turkey Creek appeared to have flushed sediments throughout the Site and silts appeared reduced in the substrate. Pools created from the inundation of the dams were removed re-creating riffle habitat that was previously there. Small erosional pools along the banks at previous dam locations were still identifiable at certain locations but they were no longer actively eroding or destabilizing the stream bank and did not influence the overall character of the stream flow. At the previous dam locations, herbaceous vegetation has reestablished. The straw mulch has mostly decomposed and areas that were used for equipment access last year are mostly reclaimed. Some areas currently had better vegetative coverage than others, but all areas had at least 80% coverage (DSCN0965.JPG and DSCN0971.JPG).

Attachments: Attachment A - Photo Log





Attachment A: Photo Log
Turkey Creek Site Visit July 24, 2019

	<p>Photo Id: DSCN0918.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0919.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0920.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0921.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0922.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0923.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0924.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0925.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0926.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0927.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0928.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0929.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	Photo Id: DSCN0930.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter
	Photo Id: DSCN0931.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter
	Photo Id: DSCN0932.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter
	Photo Id: DSCN0933.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter





Attachment A: Photo Log
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	<p>Photo Id: DSCN0934.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0935.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0936.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0937.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0938.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0939.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0940.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0941.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0942.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0943.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0944.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0945.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0946.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0951.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0952.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0953.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0954.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0955.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0956.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0957.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
Turkey Creek Site Visit July 24, 2019

	<p>Photo Id: DSCN0958.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0959.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0960.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0961.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0962.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0963.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0964.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0965.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0966.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0967.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0968.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0969.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>





Attachment A: Photo Log
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	<p>Photo Id: DSCN0970.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0971.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0972.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0973.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>

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	<p>Photo Id: DSCN0974.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0975.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0976.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0977.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>

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	<p>Photo Id: DSCN0978.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0979.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN0980.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
	<p>Photo Id: DSCN09681.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>

Attachment A: Photo Log
Turkey Creek Site Visit July 24, 2019


	<p>Photo Id: DSCN0982.JPG Date: July 24, 2019 Photo Taken By: Katelyn Almeter</p>
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Exhibit 5

Declaration of Katelyn Almeter



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

3/25/2020

Mr. John Sams

Asbury, West Virginia 24916

Re: Turkey Creek
Monitoring Requirements
Civil Action 1:15-cv-16018 (S.D. W. Va.)

Dear Mr. Sams:

The U.S. Environmental Protection Agency (EPA) is following-up on the outstanding requirements for monitoring at the Turkey Creek site as noted in our September 12, 2019 letter. As the spring index period for monitoring is approaching, EPA would like to remind Respondents of these outstanding elements per Paragraph 23 of the above-referenced Consent Decree. For a reference of these monitoring requirements and the performance standards by which request can be made to be released from monitoring please refer to the attached letter, dated March 12, 2018, specifically the section entitled "Post-removal monitoring, restoration, and quantitative performance metrics".

We appreciate your cooperation as we move forward. Should you have any questions, please feel free to contact me at 215-814-2797 or at almeter.katelyn@epa.gov.

Sincerely,

Katelyn Almeter

Katelyn Almeter
Enforcement & Compliance Assurance Division

Enclosure

cc: Austin Saylor – USDOJ (via email) w/ enclosure



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